

A. Stepanenko
Postgraduate Student,
Department of Criminal Procedure,
National University "Odessa Law Academy"

THE SUBJECT OF PROOF: NATURE AND CONCEPT

The article is devoted to the research of subject of proof in criminal procedural law of Ukraine. Based on the analysis of legislation and scientific literature, complex structure of subject of proof and its elements are identified. While proving factual circumstances, there is local subject of proof as well as subject of proof.

It is not an overstatement to assert that proving is core and one of the most important parts of any jurisdictional process and criminal in particular. Being one of the types of perception, proving is aimed at detection of circumstances of a criminal proceeding, which are explicitly listed in the Criminal Procedure Code. In the criminal procedural law and in criminalistics this list of circumstances to be proved

is called "subject of proof". This list appears to be useful in the course of investigation, when arises the necessity of making decisions, which need existence of specified reasons. This necessity appears not only while making a decision on certain case but also making interlocutory decisions during pre-trial investigation. The list of such circumstances should be called "local subject of proof".

Proving of such circumstances is necessary for making decision about ensuring measures of restraint, investigative (detective) and covert investigative (detective) actions and so forth. In this case we can consider "local subject of proof" as a collective idea of circumstances to be proved while making interlocutory (auxiliary) decisions.